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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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09/996,450

11/29/2001

Jean Marie Field

2444

25889

7590

03/11/2003

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EXAMINER

MISKA, VIT W

ART UNIT

PAPER NUMBER

2841

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/996,450

Applicant(s)

FIELD ET AL.

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-10, 13-21, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-221 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 2-10, 13-21 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. the reference discloses a snag free wristwatch with pressure sensitive device 18, display 34, and band 22 of flexible material. The terms "snag free", "flowing contours" and "substantially smooth to the touch" are relative terms and are given their broadest reasonable meaning within the context of the claim, absent specific narrowing limitations in the claims. The elements of the watch/band of the reference appear to be snag free, have flowing contours and are smooth to the touch in Figs. 1-2, except possibly for buckle 24,25. The latter, however, is only exemplary, and the patentee suggests that strap 22 could use "other fasteners" at col. 2, line 39. Thus, other fasteners, of the snag free type could be employed as suggested by patentee.

2. With respect claims 2 and 13, Official notice is taken of battery access covers in timepieces for permitting replacement of the battery. One skilled in the art would have sufficient knowledge of the same to provide such an access means in the device of the patent.

3. Regarding claims 4 and 15, Official notice is taken of the use of a bayonet type clasp means in bands or timepieces, also noted as being conventional by applicant in the original specification. The use of this type of closure would be within the scope of the "other fasteners" suggested by patentee.

4. With respect to claims 9 and 20, Official notice is taken of the use of ornamentation in timepieces and/or bands. One skilled in the art would have sufficient suggestion to provide such ornamentation in the Freeman et al device.

5. Claims 2-10, 13-21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rappaport. The reference discloses a snag-free water resistant wristwatch including battery operated watch means 13 for displaying time on display 14, pressure sensitive means 15 for controlling the watch, band 8 of polymer based material, clasp 3a,4a, ornaments in chambers 11,12, elastically deformable indents for

the pressure sensitive means (see col. 3, line 20), the elements of the wristwatch being substantially "smooth" with flowing contours. The relative terms are given their broadest reasonable interpretation, as noted in par. 1, above.

6. With respect to claims 2 and 13, details of the battery access means are not shown. However, Official notice is taken of battery access covers in timepieces for permitting replacement of the battery. One skilled in the art would have sufficient knowledge of the same to provide such an access means in the device of the patent.

7. Regarding claims 4 and 15, the patentee indicates at col.3, line 16 that joining means other than the "Velcro" type may be used. A bayonet type mechanism would be well known to one skilled in the art, and acknowledged by applicant, as noted above.

8. Claims 2-10, 13-21, 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Radley-Smith in view of Rappaport. Radley-Smith clearly teaches a wristwatch which is "snag free" and has flowing contours and is smooth to the touch, as claimed. This embodiment is shown at least in Figs. 3, 5, 6. A "conventional catch and hinge 17, 19 is further shown in Fib. 5. Details of switches are not disclosed.

9. In view of Rappaport, one of ordinary skill in the art would be taught to provide pressure sensitive switches for controlling functions of the timepiece of Radley-Smith. Details of the battery access means, clasp, and ornamentation as claimed would be obvious to one skilled in the art for reasons similar to those given in pars. 5-7, above.

Response to Arguments

10. Applicant's arguments have been given careful consideration, but have not been found persuasive. The principal objections by applicant to Rappaport and Freeman et al reside in lacking the "snag free", "smooth" and "flowing" features. These, however, have been indicated as being relative terms, which unless specifically limited in the claims by structural features, are given their broadest interpretation. Applicant has not pointed to specific limitations in the claims which set forth distinguishing features not met in the references. Radley-Smith has been cited previously and discloses the claimed snag free features as argued by applicant.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 703-308-3096. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 703-308-3121. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Art Unit: 2841

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.



Vit Miska
Primary Examiner

VM
March 10, 2003